

AN ACT

relating to retirement under public retirement systems for employees of certain municipalities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1, Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. SCOPE. (a) A retirement system is established by this Act for employees of each municipality having a population of more than 760,000 ~~[600,000]~~ and less than 860,000.

(b) ~~Any [700,000, provided, however, that once such pension system becomes operative in any city, any]~~ right or privilege accruing to any member of a retirement system established by this Act is [thereunder shall be] a vested right according to the terms of this Act ~~[and the same shall not be denied or abridged thereafter through any change in population of any such city taking such city out of the population bracket as herein prescribed, and said pension system shall continue to operate and function regardless of whether or not any future population exceeds or falls below said population bracket].~~

(c) This Act continues to apply to a municipality described by Subsection (a) and a retirement system established by this Act continues to operate regardless of any change in the municipality's population.

SECTION 2. Section 2, Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2. DEFINITIONS. The following words and phrases have the meanings assigned by this section unless a different meaning is plainly required by the context:

(1) "Accumulated deposits" means the amount standing to the credit of a member derived from the deposits required to be made by the member to the retirement system improved annually by interest credited at a rate determined by the retirement board from time to time upon the advice of the retirement board's actuary and credited as of December 31 to amounts standing to the credit of the member on January 1 of the same calendar year.

(2) "Actual retirement date" means the last day of the month during which a member retires.

(3) "Actuarial equivalent" means any benefit of equal present value when computed on the basis of actuarial tables adopted by the retirement board from time to time upon the advice of the retirement board's actuary. The actuarial tables adopted for this purpose shall be tables that are acceptable to the Internal Revenue Service and be clearly identified by resolution adopted by the retirement board.

(4) "Actuary" means the technical advisor of the retirement board regarding the operations which are based on mortality, service, and compensation experience.

(5) "Agency of the municipality" means any agency or instrumentality of the municipality or governmental or publicly

1 owned legal entity created by the municipality, before or after
2 ~~[subsequent to]~~ the effective date of this Act, to perform or
3 provide a public service or function and that employs at least one
4 employee to provide services or accomplish its public purpose.

5 (6) "Approved medical leave of absence" means any
6 absence authorized in writing by the member's employer for the
7 purpose of enabling the member to obtain medical care or treatment
8 or to recover from any sickness or injury.

9 (7) "Authorized leave of absence" means military leave
10 of absence, including a period of not more than 90 days after the
11 date of release from active military duty, or any other leave of
12 absence during which a member is otherwise authorized by law to
13 continue making contributions to the system. The term does not
14 include an approved medical leave of absence.

15 (8) "Average final compensation" means the average
16 monthly compensation, as defined and limited by Subdivision (12) of
17 this section, less overtime, incentive, and terminal pay, plus, (i)
18 amounts picked up by the employer pursuant to Section 10(e) of this
19 Act, and (ii) amounts that would be included in wages but for an
20 election under Section 125(d), 132(f)(4), 402(e)(3), 402(h)(1)(B),
21 402(k), or 457(b) of the code, [not otherwise included in the
22 member's taxable income by reason of either an election under a
23 "cafeteria" plan as described in Section 125 of the code or
24 deferrals under a plan of deferred compensation within the scope of
25 Section 457 of the code, to the extent not in excess of \$12,500 for
26 persons who first become members after 1995 that is earned by a
27 member] during, as applicable:

1 (A) if the member has 120 months or more of
2 membership service, the 36 months of membership service which
3 yielded the highest average during the last 120 months of
4 membership service;

5 (B) if the member has less than 120 months of
6 membership service, but has at least 36 months of membership
7 service, then the average during the 36 months which yield the
8 highest average; or

9 (C) if the member does not have 36 months of
10 membership service, then the average during the member's months of
11 membership service.

12 The term does not include annual compensation in excess
13 of the dollar limit under Section 401(a)(17) of the code for any
14 employee who first becomes a member in a year commencing after 1995,
15 and that compensation shall be disregarded in determining average
16 final compensation. Any reduction for overtime, incentive, and
17 terminal pay shall not cause a member's compensation to be less than
18 the limit under Section 401(a)(17) of the code to the extent that
19 the compensation has already been reduced in accordance with
20 Subdivision (12). The dollar limitation shall be adjusted for cost
21 of living increases as provided under Section 401(a)(17) of the
22 code.

23 (9) "Beneficiary" means the member's designated
24 beneficiary. If there is no effective beneficiary designation on
25 the date of the member's death, or if the designated beneficiary
26 predeceases the member (or dies as a result of the same event that
27 caused the member's death and does not survive the member by 48

1 hours), the member's spouse or, if the member does not have a
2 spouse, the member's estate shall be the beneficiary.

3 (10) "Board" means the boards of directors of an
4 employer that is not a municipality as described in Section 1 of
5 this Act.

6 (11) "Code" means the United States Internal Revenue
7 Code of 1986 (26 U.S.C. Section 1 et seq.) and its successors.

8 (12) "Compensation" means, with respect to any member,
9 such member's wages, within the meaning of Section 3401(a) of the
10 code (for purposes of income tax withholding at the source) but
11 determined without regard to any rules that limit the remuneration
12 included in wages based on the nature or location of the employment
13 or the services performed (such as the exception for agricultural
14 labor in Section 3401(a)(2) of the code). Compensation in excess of
15 the dollar limit under Section 401(a)(17) of the code shall be
16 disregarded in determining the compensation of [~~\$12,500 per month~~
17 ~~for~~] any employee who first becomes a member in a year commencing
18 after 1995 [~~shall be disregarded~~]. The dollar [~~\$12,500~~] limitation
19 shall be adjusted for cost of living increases as provided under
20 Section 401(a)(17) of the code.

21 (13) "Consumer price index" means the Consumer Price
22 Index for Urban Wage Earners and Clerical Workers (United States
23 City Average, All Items) published monthly by the Bureau of Labor
24 Statistics, United States Department of Labor, or its successor in
25 function.

26 (14) "Creditable service" means the total of prior
27 service, membership service, redeemed service, and service

1 purchased under Section 6 of this Act.

2 (15) "Current service annuity" means a series of equal
3 monthly payments payable for the member's life after retirement for
4 creditable ~~[membership]~~ service from funds of the retirement system
5 equal to:

6 (A) for Group A members, one-twelfth of the
7 product of 3.0 [2.7] percent ~~[or a higher percentage established by~~
8 ~~the retirement board under Section 10(g) of this Act]~~ of a member's
9 average final compensation multiplied by the number of months of
10 creditable ~~[membership]~~ service; and

11 (B) for Group B members, one-twelfth of the
12 product of 2.5 percent of a member's average final compensation
13 multiplied by the number of months of creditable service.

14 (16) "Deposits" means the amounts required to be paid
15 by members in accordance with the provisions of this Act.

16 (17) "Designated beneficiary" means any person,
17 trust, or estate properly designated on a form provided by the
18 retirement system by a member to receive benefits from the system in
19 the event of the member's death. If the member is married, an
20 individual other than the member's spouse may be the designated
21 beneficiary only if the spouse consents to such designation in the
22 form and manner prescribed by the retirement board.

23 (18) "Disability retirement" means the termination of
24 employment of a member because of disability with a disability
25 retirement allowance as provided in Section 8 of this Act.

26 (18A) "Early retirement annuity" means an annuity that
27 is the actuarial equivalent of a current service annuity that would

1 otherwise be payable at age 65 under this Act but that is reduced
2 based on the member's actual age in years and months.

3 (18B) "Early retirement eligible member" means a
4 member of Group B that:

5 (A) is at least 55 years of age; and

6 (B) has at least 10 years of creditable service,
7 excluding nonqualified permissive service credit.

8 (19) "Employer" means the municipality described in
9 Section 1 of this Act, the retirement board, or an agency of the
10 municipality.

11 (20) "Fund" means the trust fund containing the
12 aggregate of the assets of Fund No. 1 and Fund No. 2.

13 (21) "Fund No. 1" means the fund in which shall be kept
14 all accumulated deposits of members who have not withdrawn from the
15 system.

16 (22) "Fund No. 2" means the fund in which shall be kept
17 all money contributed by the city on behalf of city employees, by an
18 agency of the municipality on behalf of the agency's employees, and
19 by the retirement board on behalf of retirement board employees,
20 interest earned thereon, and all accumulations and earnings of the
21 system.

22 (23) "Governing body" means the city council of the
23 municipality described in Section 1 and its successors as
24 constituted from time to time.

25 (23A) "Group A" means the group of members of the
26 retirement system that includes each member who:

27 (A) began membership service on or after January

1 1, 1941, and on or before December 31, 2011; or

2 (B) returned to full-time employment on or after
3 January 1, 2012, and:

4 (i) was previously a member of Group A;

5 (ii) ceased to be a member of the retirement
6 system;

7 (iii) received a distribution of the
8 member's accumulated deposits; and

9 (iv) reinstated all of the member's prior
10 membership service credit.

11 (23B) "Group B" means the group of members of the
12 retirement system that includes each member who:

13 (A) began membership service on or after January
14 1, 2012; or

15 (B) returned to full-time employment on or after
16 January 1, 2012, and:

17 (i) was previously a member of Group A;

18 (ii) ceased to be a member of the retirement
19 system;

20 (iii) received a distribution of the
21 member's accumulated deposits; and

22 (iv) has not reinstated all of the member's
23 prior membership service credit.

24 (25) "Investment consultant" means the person or
25 entity that monitors the investment performance of the system and
26 provides such other services as requested by the retirement board.

27 (26) "Investment manager" means the persons or

1 entities that have the power to manage, acquire, or dispose of
2 assets of the fund on behalf of the retirement system and that
3 acknowledge fiduciary responsibility to the system in writing. An
4 investment manager must be a person, firm, or corporation
5 registered as an investment adviser under the Investment Advisers
6 Act of 1940, a bank, or an insurance company qualified to manage,
7 acquire or dispose of assets under the laws of more than one state
8 including this state that meets the requirements of Section
9 802.204, Government Code.

10 (27) "Life annuity" means a series of equal monthly
11 payments, payable after retirement for a member's life, consisting
12 of a combination of prior service pension and current service
13 annuity, or early retirement annuity, to which the member is
14 entitled.

15 (28) "Life annuity (modified cash refund)" means a
16 life annuity providing that, in the event of death of the retired
17 member before that member has received payments under the life
18 annuity totaling the amount of that member's accumulated deposits
19 at the date of retirement, the excess of such accumulated deposits
20 over the payments made shall be paid in one lump sum to the member's
21 designated beneficiary.

22 (29) "Malfeasance" means willful misconduct or the
23 knowingly improper performance of any act, duty, or responsibility
24 under this Act, including non-performance, that interrupts,
25 interferes with, or attempts to interfere with the administration,
26 operation, and management of the retirement system or any person's
27 duties under this Act.

(30) "Member" means any:

(A) regular full-time employee of an employer;
and

(B) former regular full-time employee who has not withdrawn the member's accumulated deposits from the system.

In any case of doubt regarding the eligibility of any employee to become or remain a member of the retirement system, or the assignment of a member to a group, the decision of the retirement board is final.

(31) "Membership service" means the period of time on or after January 1, 1941, during which a person is or was employed as a regular full-time employee or is or was on an authorized leave of absence and who is eligible for participation in the system and pays into and keeps on deposit the amounts of money prescribed to be paid by the member into the system. The term includes redeemed membership service.

(32) "Normal retirement age" means:

(A) for members of Group A:

(i) age 62;

(ii) [~~B~~] 55 years of age with 20 years of creditable service; or

(iii) [~~C~~] 23 years of creditable service, regardless of years of age; and

(B) for members of Group B:

(i) 62 years of age with 30 years of creditable service, excluding nonqualified permissive service credit; or

1 (ii) 65 years of age with five years of
2 creditable service, excluding nonqualified permissive service
3 credit.

4 (33) "Normal retirement date" means:

5 (A) for members of Group A, the earlier of the
6 date a member attains a normal retirement age or the date on which
7 the member has completed 23 years of creditable service; and

8 (B) for members of Group B, the date the member
9 reaches normal retirement age under Subdivision (32)(B) of this
10 section ~~[or a lesser number of years of creditable service~~
11 ~~established by the retirement board under Section 10(g) of this~~
12 ~~Act].~~

13 (34) "Prior service" means membership service as an
14 employee of the city:

15 (A) rendered by a person prior to January 1,
16 1941, for which a pension credit is allowable under prior law
17 governing the retirement system of that city; and

18 (B) which for a person after January 1, 1941,
19 includes redeemed membership ~~[prior]~~ service.

20 (35) "Prior service pension" means a series of equal
21 monthly payments payable from funds of the retirement system for a
22 member's life after retirement for prior service equal to
23 one-twelfth of the product of 3.0 ~~[2.7]~~ percent ~~[or a greater~~
24 ~~percentage established by the retirement board under Section 10(g)~~
25 ~~of this Act]~~ of the member's average monthly earnings during a
26 period of five years preceding January 1, 1941, multiplied by the
27 number of months of prior service. ~~[On retirement at an age other~~

~~1 than normal retirement age, the monthly prior service pension~~
~~2 herein prescribed shall be the actuarial equivalent thereof at the~~
~~3 member's actual retirement date, based on the schedule or schedules~~
~~4 of payments approved by the actuary and adopted by the retirement~~
~~5 board and in effect on the member's actual retirement date.]~~

6 (36) "Qualified domestic relations order" has the
7 meaning assigned by Section 804.001, Government Code, and its
8 subsequent amendments.

9 (37) "Redeemed membership service" means membership
10 service reinstated in accordance with Section 5(e) of this Act.

11 (38) "Redeemed prior service" means prior service
12 reinstated in accordance with Section 5(e) of this Act.

13 (39) "Regular full-time employee" means an individual
14 who is employed by the municipality, an agency of the municipality,
15 or the retirement board who is not a commissioned civil service
16 police officer or fire fighter, a fire or police cadet employed
17 under civil service procedures, the mayor, or a member of the
18 governing body; who serves in a position that is classified in the
19 annual budget of an employer for employment for the full calendar
20 year; and who works or is budgeted for 30 hours or more in a normal
21 40-hour work week. The term does not include an individual whose
22 position is classified as seasonal or temporary by the employer,
23 even if the individual works 30 hours or more in a normal 40-hour
24 work week in which the individual is employed.

25 (40) "Retired member" means a person who because of
26 creditable service or age is qualified to receive and who has
27 retired and is eligible to continue receiving a retirement

allowance as provided by this Act.

(41) "Retirement" means the termination of employment of a member after the member becomes entitled to receive a retirement allowance in accordance with the provisions of this Act.

(42) "Retirement allowance" means the life annuity (modified cash refund) to which a member may be entitled under this Act, including annuities payable on disability retirement.

(43) "Retirement board" means the board of trustees of the retirement and pensioning system herein created for the purpose of administering the retirement system.

(44) "Retirement system," "retirement and pensioning system," "pension system," or "system" means the retirement and pensioning system created by this Act for a municipality governed by this Act or a retirement system established under this Act.

(45) "Year of creditable service" means a 12-month period of creditable service determined in accordance with uniform and nondiscriminatory rules established by the retirement board.

SECTION 3. Section 3, Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3. ESTABLISHMENT AND APPLICABILITY. Subject to the authority granted the retirement board in Section 7(d) of this Act:

(1) [7] members who retired, and the beneficiaries of members who died, prior to October 1, 2011 [~~1999~~], shall continue to receive the same retirement allowances or benefits they were entitled to receive prior to that date, together with any benefit increase authorized under this Act;

1 (2) members of the retirement system on or before
2 December 31, 2011, shall be enrolled as members of Group A; and

3 (3) persons that first become members of the
4 retirement system on or after January 1, 2012, shall be enrolled in
5 Group B.

6 SECTION 4. Subsections (b), (c), and (e), Section 5,
7 Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991
8 (Article 6243n, Vernon's Texas Civil Statutes), are amended to read
9 as follows:

10 (b) Membership in the retirement system consists of Groups A
11 and B, each of which consists of the following groups:

12 (1) the active-contributory members group, which
13 consists of all members, other than those on authorized leave of
14 absence, who are making deposits;

15 (2) the active-noncontributory members group, which
16 consists of all employees on approved medical leave of absence and
17 all employees of an employer, other than inactive-contributory
18 members, who have been active-contributory members but who are no
19 longer so because they are not regular full-time employees;

20 (3) the inactive-contributory members group, which
21 consists of all members who are on an authorized leave of absence
22 and who continue to make deposits into the retirement system during
23 their absence;

24 (4) the inactive-noncontributory members group, which
25 consists of all members whose status as an employee has been
26 terminated before retirement or disability retirement but who are
27 still entitled to or who may become entitled to, or whose

1 beneficiary may become entitled to, benefits from the retirement
2 system; and

3 (5) the retired members group, which consists of all
4 members who have retired and who are receiving or who are entitled
5 to receive a retirement allowance.

6 (c) A [~~An active-noncontributory~~] member becomes an
7 active-contributory member immediately on resuming employment as a
8 regular full-time employee or on returning from an approved medical
9 leave of absence, as applicable. A member who resumes regular
10 full-time employment is assigned to the group for which the member
11 is qualified under Subdivisions (23A) and (23B), Section 2 of this
12 Act.

13 (e) Any person who has ceased to be a member and has received
14 a distribution of the person's accumulated deposits may have the
15 person's membership service in the original group in which the
16 membership service was earned [~~or prior service~~] reinstated if the
17 person is reemployed as a regular full-time employee [~~for a~~
18 ~~continuous period of 24 months~~] and deposits into the system[~~,~~
19 ~~within a reasonable period established by the retirement board on a~~
20 ~~uniform and nondiscriminatory basis,~~] the accumulated deposits
21 withdrawn by that person, together with an interest payment equal
22 to the amount withdrawn multiplied by an interest factor. The
23 interest factor is equal to the annually compounded interest rate
24 assumed to have been earned by the fund beginning with the month and
25 year in which the person withdrew the person's accumulated deposits
26 and ending with the month and year in which the deposit under this
27 subsection is made. The interest rate assumed to have been earned

1 by the fund for any period is equal to the interest rate credited
2 for that period to the accumulated deposits of members, divided by
3 0.75.

4 SECTION 5. Section 6, Chapter 451, Acts of the 72nd
5 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas
6 Civil Statutes), is amended by amending Subsections (c) and (f) and
7 adding Subsections (e-1), (e-2), and (e-3) to read as follows:

8 (c)(1) Uniformed service creditable in the retirement
9 system is any service required to be credited by the Uniformed
10 Services Employment and Reemployment Rights Act of 1994 (38 U.S.C.
11 Section 4301 et seq.), as amended, and certain federal duty service
12 in the armed forces of the United States performed before the
13 beginning of employment with the employer, other than service as a
14 student at a service academy, as a member of the reserves, or any
15 continuous active military service lasting less than 90 days. A
16 member may use uniformed service to establish creditable service
17 subject to the conditions of Subdivisions (2)-(6) of this
18 subsection.

19 (2) A member may establish uniformed creditable
20 service for an authorized leave of absence from employment for
21 military service under this subsection by making periodic payments
22 or a lump-sum payment. If the member elects to make periodic
23 payments, the member shall make, each pay period during the period
24 that the member is on authorized leave, a deposit in an amount equal
25 to the amount of the member's deposit for the last complete pay
26 period that the member was paid by the employer as a regular
27 full-time employee. If the member elects to make a lump-sum

1 payment, the member and the employer shall, not later than the fifth
2 anniversary of the date the member returns to employment with the
3 employer, make separate lump-sum payments equal to the total amount
4 of the contributions the member would have made if the member had
5 made periodic contributions. A lump-sum payment may not exceed the
6 amount required under the Uniformed Services Employment and
7 Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.), as
8 amended, if the member makes the contributions within the time
9 required by that Act. The employee's employer shall make
10 contributions to the retirement fund as though the member has
11 continued employment at the salary of the member for the last
12 complete pay period before the absence for military service. The
13 employer's contributions shall be made each pay period if the
14 member is making periodic payments during the period. During an
15 authorized leave of absence, the member accrues membership service
16 for the pay periods in which the member makes a deposit. Membership
17 service credit for a lump-sum payment accrues at the time of
18 payment.

19 (3) A member may establish uniformed creditable
20 service for active federal duty service in the armed forces of the
21 United States, other than service as a student at a service academy,
22 as a member of the reserves, or any continuous active military
23 service lasting less than 90 days, performed before the first day of
24 employment of the member's most recent membership in the retirement
25 system or its predecessor system. To establish creditable service
26 under this subdivision, the member must contribute a lump-sum
27 payment equal to 25 percent of the estimated cost of the retirement

benefits the member will be entitled to receive. The retirement board will determine the required contribution based on a procedure recommended by the actuary and approved by the retirement board.

(4) A member is not eligible to establish uniformed service credit unless the member was released from active military duty under conditions other than dishonorable.

(5) A member may not establish creditable service in the retirement system for uniformed service for more than the greater of the creditable service required under the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.), as amended, or 48 months of creditable service in the retirement system for uniformed service under this subsection. A member is not precluded from purchasing qualified military service to which the member is entitled solely because the member, before beginning a leave of absence for qualified military service, purchased creditable service for military service performed before becoming employed by the employer.

(6) After the member makes the deposit required by this subsection, the retirement system shall grant the member one month of creditable service for each month of creditable uniformed service established under this subsection.

(e-1) An active contributory member that is eligible for retirement may file a written application to convert to creditable service at retirement all or part of the member's sick leave accrued with the employer that is eligible for conversion. The application must be approved by the retirement board. The member may not convert sick leave for which the member is entitled to be paid by

1 the employer. Sick leave hours may be converted in pay period
2 increments for the purpose of increasing creditable service that is
3 used in the calculation of benefits. Sick leave hours may not be
4 used to reach retirement eligibility. Both the employer and the
5 member must make the equivalent amount of retirement contributions
6 that would have been made had the sick hours been exercised and used
7 as sick leave hours.

8 (e-2) Nonqualified permissive creditable service may be
9 purchased only as provided by this subsection. A member may
10 purchase nonqualified permissive creditable service:

11 (1) only to the extent permitted under both this
12 subsection and Section 415(n) of the code;

13 (2) in an amount that:

14 (A) for each purchase, is not less than one
15 month; and

16 (B) when all amounts purchased under this
17 subsection are combined, is not more than 60 months; and

18 (3) only if the member has reinstated all prior
19 membership service in:

20 (A) Groups A and B if the member was initially
21 enrolled as a member of Group A, but ceased to be a member of Group
22 A, by:

23 (i) first reinstating all prior membership
24 service in Group A;

25 (ii) next reinstating all prior membership
26 service in Group B; and

27 (iii) then purchasing the nonqualified

1 permissive creditable service; or

2 (B) Group B, if the member was initially enrolled
3 as a member of Group B, by:

4 (i) first reinstating all prior membership
5 service in Group B; and

6 (ii) then purchasing the nonqualified
7 permissive creditable service.

8 (e-3) Nonqualified permissive creditable service purchased
9 by members of Group B is not included in the creditable service
10 required to qualify a member for normal or early retirement
11 eligibility.

12 (f) The full actuarial cost of noncontributory creditable
13 service purchased as provided by Subsections ~~[Subsection]~~ (e),
14 (e-1), (e-2), and (e-3) of this section is payable by the member
15 purchasing the credit.

16 SECTION 6. Section 7, Chapter 451, Acts of the 72nd
17 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas
18 Civil Statutes), is amended by amending Subsections (a), (1), and
19 (z), and adding Subsections (a-1) and (ii) to read as follows:

20 (a) Except as provided by Subsection (b) of this section, a
21 member who retires on or after the member's normal retirement date
22 for the group in which the member is enrolled, or a member of Group B
23 eligible for early retirement who retires, and applies in writing
24 for a retirement allowance shall receive the [a] life annuity
25 (modified cash refund) or the early retirement annuity to which the
26 member is entitled. An annuity begins ~~[beginning]~~ on the last day
27 of the month after the month in which the member retired. Unless

1 Section 8 of this Act applies, or the member is an early retirement
2 eligible member of Group B, a member whose employment by the
3 employer terminates before the member's normal retirement date is
4 entitled to a distribution of the member's accumulated deposits in
5 a single lump sum. On receiving that distribution, a member is not
6 entitled to any other benefit under this Act. If a member has at
7 least five years of creditable service and does not withdraw the
8 member's accumulated deposits, the member is entitled to a life
9 annuity (modified cash refund) beginning on the first day of the
10 month after the month in which the member's normal retirement date
11 occurs.

12 (a-1) If not already nonforfeitable, a member's retirement
13 benefit becomes nonforfeitable at normal retirement age.

14 (1) A member may file a written designation, which, if
15 approved by the retirement board, shall entitle the member, on
16 retirement, to receive the actuarial equivalent of the life annuity
17 in the form of one of the following options:

18 (1) Option I. 100 Percent Joint and Survivor Annuity.
19 This option is a reduced monthly annuity payable to the member but
20 with the provision that on the member's death the annuity shall be
21 continued throughout the life of and be paid to such person as the
22 member shall designate before the member's actual retirement date.

23 (2) Option II. 50 Percent Joint and Survivor Annuity.
24 This option is a reduced monthly annuity payable to the member but
25 with the provision that on the member's death one-half of the
26 annuity shall be continued throughout the life of and be paid to
27 such person as the member shall designate before the member's

1 actual retirement date.

2 (3) Option III. 66-2/3 Percent Joint and Survivor
3 Annuity. This option is a reduced monthly annuity payable to the
4 member but with the provision that on the member's death two-thirds
5 of the annuity shall be continued throughout the life of and be paid
6 to such person as the member shall designate before the member's
7 actual retirement date.

8 (4) Option IV. Joint and 66-2/3 Percent Last Survivor
9 Annuity. This option is a reduced monthly annuity payable to the
10 member but with the provision that two-thirds of the annuity to
11 which the member would be entitled shall be continued throughout
12 the life of and be paid to the survivor after the death of either the
13 member or such person as the member shall designate before the
14 member's actual retirement date.

15 (5) Option V. 15-Year Certain and Life Annuity. This
16 option is a reduced annuity payable to the member for life. In the
17 event of the member's death before 180 monthly payments have been
18 made, the remainder of the 180 payments shall be paid to the
19 member's beneficiary or, if there is no beneficiary, to the member's
20 estate.

21 (6) Option VI. Equivalent Benefit Plan. If a member
22 requests in writing, any other form of benefit or benefits may be
23 paid either to the member or to such person or persons as the member
24 shall designate before the member's actual retirement date,
25 provided that the benefit plan requested by the member is certified
26 by the actuary for the system to be the actuarial equivalent of the
27 life annuity with guaranteed refund of the retired member's

1 accumulated deposits. If, on the death of the member and all other
2 persons entitled to receive payments under an optional benefit, the
3 member's accumulated deposits as of the member's actual retirement
4 date exceed the sum of all payments made under that optional
5 benefit, that excess shall be paid in one lump sum to the member's
6 beneficiary. A member selecting this option may elect to receive
7 (i) either a life annuity or one of the actuarially-equivalent
8 annuities described by Subdivisions (1)-(5) and (ii) a lump-sum
9 payment upon retirement. If a member requests a lump-sum payment,
10 the annuity requested by the member shall be actuarially reduced as
11 a result of the lump-sum payment. The lump-sum payment may not
12 exceed an amount equal to the total amount of 60 monthly life
13 annuity payments. Active contributory members that reach normal
14 retirement age may upon retirement elect to participate in a
15 backward deferred retirement option program ("backward DROP") that
16 permits a minimum participation period of one month and a maximum
17 participation period of 60 months. This deferred retirement option
18 is subject to retirement board policies issued in compliance with
19 the code. No interest will be paid on, or added to, any backward
20 DROP payment.

21 (z) If the person designated in writing by the member under
22 Option I, Option II, or Option III, or, excluding a joint and last
23 survivor option, any retirement option that includes a joint and
24 survivor option, predeceases the retired member, the reduced
25 annuity of a retired member who selected the optional lifetime
26 retirement annuity shall be increased to the standard service
27 retirement annuity that the retiree would have been entitled to

1 receive if the retired member had not selected Option I, Option II,
 2 or Option III. The standard service retirement annuity shall be
 3 appropriately adjusted for early retirement and for the
 4 postretirement increases in retirement benefits. The increase in
 5 the annuity under this subsection is payable to the retired member
 6 for life and begins with the later of the monthly payment made to
 7 the retired member for the month following the month in which the
 8 person designated by the member dies or the month following the
 9 month in which the retired member gives the system notice of the
 10 designated person's death.

11 (ii) If a member dies while performing qualified military
 12 service, the beneficiaries of the member are entitled to any
 13 additional benefits, other than benefit accruals relating to the
 14 qualified military service, that would have been provided if the
 15 member had returned from the military leave of absence and then
 16 terminated employment on account of death.

17 SECTION 7. Section 9, Chapter 451, Acts of the 72nd
 18 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas
 19 Civil Statutes), is amended by amending Subsection (a) and adding
 20 Subsections (c) through (g) to read as follows:

21 (a) Notwithstanding any other provisions of this Act, the
 22 annual benefit provided with respect to any member may not exceed
 23 the benefits allowed for a governmental defined benefit plan
 24 qualified under Section 401 [415] of the code. The maximum benefits
 25 allowed under this section shall increase each year to the extent
 26 permitted by annual cost of living increase adjustments announced
 27 by the United States secretary of the treasury under Section 415(d)

1 of the code and the increased benefit limits shall apply to members
2 who have terminated employment, including members who have
3 commenced to receive benefits, before the effective date of the
4 adjustment.

5 (c) A member who retires after reaching normal retirement
6 age and continues or resumes employment with an employer in a
7 position that is required to participate in another retirement
8 system maintained by the employer continues to be eligible to
9 receive the retirement allowance provided under this Act.

10 (d) The retirement board shall suspend the retirement
11 allowance of a retired member who resumes employment with an
12 employer within the period of time prescribed by the retirement
13 board in the board's policy, or who resumes employment after
14 retirement as a regular full-time employee of an employer. The
15 retirement board shall reinstate the member's retirement allowance
16 as provided under Subsection (f) of this section.

17 (e) The retirement board shall suspend the retirement
18 allowance of a retired member who resumes employment with an
19 employer in a position that is not required to participate in
20 another retirement system maintained by an employer, and who is not
21 a regular full-time employee of an employer, if the member works
22 for, or is compensated by, an employer for more than 1,508 hours in
23 any rolling 12-month period after the member resumes employment
24 with the employer. The retirement board shall reinstate the
25 member's retirement allowance as provided under Subsection (f) of
26 this section.

27 (f) A member whose retirement allowance is suspended under

1 Subsection (d) or (e) of this section may apply in writing for
 2 reinstatement of the retirement allowance when the member retires
 3 again. The retirement system shall calculate the reinstated
 4 retirement allowance based on the member's total creditable
 5 service, reduced actuarially to reflect the gross amount of total
 6 retirement allowance paid to the member prior to suspension of the
 7 retirement allowance.

8 (g) The retirement system and the employer shall adopt and
 9 amend procedures for the exchange of information in order to
 10 implement the provisions of this section.

11 SECTION 8. Subsection (a), Section 10, Chapter 451, Acts of
 12 the 72nd Legislature, Regular Session, 1991 (Article 6243n,
 13 Vernon's Texas Civil Statutes), is amended to read as follows:

14 (a) Each active-contributory member shall make deposits to
 15 the retirement system at a rate equal to eight [~~seven~~] percent of
 16 the member's base compensation, pay, or salary, exclusive of
 17 overtime, incentive, or terminal pay or at a higher contribution
 18 rate approved by a majority vote of regular full-time employee
 19 members. Deposits shall be made by payroll deduction each pay
 20 period. If a regular full-time employee works at least 75 percent
 21 of a normal 40-hour work week but less than the full 40 hours, the
 22 employee shall make deposits as though working a normal 40-hour
 23 work week even though the rate of contribution may exceed eight
 24 [~~seven~~] percent of the employee's actual compensation, pay, or
 25 salary, and the employee's average final compensation shall be
 26 computed on the basis of the compensation, pay, or salary for a
 27 normal 40-hour work week. No deposits may be made nor membership

1 service credit received for periods during which an employee's
2 authorized normal work week is less than 75 percent of a normal
3 40-hour work week. A person who is eligible for
4 inactive-contributory membership status and who chooses to be an
5 inactive-contributory member shall make deposits to the retirement
6 system each pay period in an amount that is equal to the amount of
7 the member's deposit for the last complete pay period that the
8 member was a regular full-time employee. The regular full-time
9 employee members may increase, by a majority vote of all such
10 members voting at an election to consider an increase in
11 contributions, each member's contributions above eight [~~seven~~]
12 percent or above the higher rate in effect and approved by majority
13 vote in whatever amount the retirement board recommends. Each
14 employer shall contribute amounts equal to eight [~~seven~~] percent of
15 the compensation, pay, or salary of each active-contributory member
16 and each inactive-contributory member employed by the employer,
17 exclusive of overtime, incentive, or terminal pay, or a higher
18 contribution rate agreed by the employer. If a regular full-time
19 employee of the employer works at least 75 percent of a normal
20 40-hour work week but less than the full 40 hours, the employer
21 shall make contributions for that employee as though that employee
22 works a normal 40-hour work week even though the rate of
23 contribution may exceed eight [~~seven~~] percent of that employee's
24 actual compensation, pay, or salary. The governing body of the city
25 may authorize the city to make additional contributions to the
26 system in whatever amount the governing body may determine. If the
27 governing body authorizes additional contributions to the system by

1 the city for city employees, the board of each other employer shall
2 ~~may~~ increase the contributions for such employer's respective
3 employees by the same percentage. Employer contributions shall be
4 made each pay period.

5 SECTION 9. Section 12, Chapter 451, Acts of the 72nd
6 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas
7 Civil Statutes), is amended by adding Subsection (d-1) and amending
8 Subsection (e) to read as follows:

9 (d-1) Members of the retirement system that are enrolled in
10 Group A shall have the rights and be entitled to the benefits
11 provided under this Act for members of Group A. Members of the
12 retirement system that are enrolled in Group B shall have the rights
13 and be entitled to the benefits provided under this Act for members
14 of Group B. A member may not be a member of both Group A and Group B.

15 (e) Notwithstanding any provision of this Act to the
16 contrary that would otherwise limit a distributee's election, a
17 distributee may elect, at the time and in the manner prescribed by
18 the retirement board, to have any portion of an eligible rollover
19 distribution paid directly to an eligible retirement plan specified
20 by the distributee in a direct rollover. For purposes of this
21 subsection:

22 (1) An eligible rollover distribution is any
23 distribution of all or any portion of the balance to the credit of
24 the distributee, except that an eligible rollover distribution does
25 not include:

26 (A) any distribution that is one of a series of
27 substantially equal periodic payments (not less frequently than

1 annually) made over the life (or life expectancy) of the
2 distributee or the joint lives (or joint life expectancies) of the
3 distributee and the distributee's designated beneficiary;

4 (B) any series of payments for a specified period
5 of ten years or more;

6 (C) any distribution to the extent such
7 distribution is required under Section 401(a)(9) of the code; or

8 (D) the portion of any distribution that is not
9 includable in gross income unless the distributee directs that the
10 eligible rollover distribution be transferred directly to a
11 qualified trust that is part of a defined contribution plan that
12 agrees to separately account for the portion that is includable in
13 gross income and the portion that is not, or to an individual
14 retirement account or individual annuity [~~determined without~~
15 ~~regard to the exclusion for net unrealized appreciation with~~
16 ~~respect to employer securities)].~~

17 (2) An "eligible retirement plan" is an individual
18 retirement account described in Section 408(a) of the code, an
19 individual retirement annuity described in Section 408(b) of the
20 code, an annuity plan described in Section 403(a) of the code, [~~or~~]
21 a qualified trust described in Section 401(a) of the code, an
22 eligible deferred compensation plan described in Section 457(b) of
23 the code which is maintained by an eligible employer described in
24 Section 457(e)(1)(A) of the code, or an annuity contract described
25 in Section 403(b) of the code, that accepts the distributee's
26 eligible rollover distribution. However, in the case of an
27 eligible rollover distribution to a designated beneficiary who is

1 not the surviving spouse, or the spouse or former spouse under a
2 qualified domestic relations order, an eligible retirement plan is
3 an individual retirement account or individual retirement annuity
4 only.

5 (3) A "distributee" includes an employee or former
6 employee. In addition, the employee's or former employee's
7 surviving spouse or designated beneficiary and the employee's or
8 former employee's spouse or former spouse who is the alternate
9 payee under a qualified domestic relations order, as defined in
10 Section 414(p) of the code, are distributees with regard to the
11 interest of the spouse or the former spouse.

12 (4) A "direct rollover" is a payment by the retirement
13 system to the eligible retirement plan specified by the
14 distributee.

15 SECTION 10. The following laws are repealed:

16 (1) Subsection (p), Section 9, Chapter 451, Acts of
17 the 72nd Legislature, Regular Session, 1991 (Article 6243n,
18 Vernon's Texas Civil Statutes); and

19 (2) Subsection (g), Section 10, Chapter 451, Acts of
20 the 72nd Legislature, Regular Session, 1991 (Article 6243n,
21 Vernon's Texas Civil Statutes).

22 SECTION 11. This Act takes effect immediately if it
23 receives a vote of two-thirds of all the members elected to each
24 house, as provided by Section 39, Article III, Texas Constitution.
25 If this Act does not receive the vote necessary for immediate
26 effect, this Act takes effect October 1, 2011.

H.B. No. 3033

David Newkirk

President of the Senate

Joe Straus

Speaker of the House

I certify that H.B. No. 3033 was passed by the House on May 3, 2011, by the following vote: Yeas 143, Nays 1, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3033 on May 25, 2011, by the following vote: Yeas 130, Nays 15, 2 present, not voting.

Robert Haney

Chief Clerk of the House

I certify that H.B. No. 3033 was passed by the Senate, with amendments, on May 24, 2011, by the following vote: Yeas 31, Nays 0.

Patsy Spaw

Secretary of the Senate

APPROVED: _____

Date

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
4pm O'CLOCK

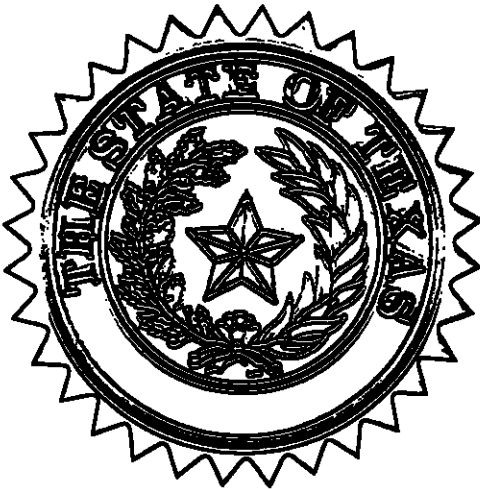
JUN 17 2011
Debra Rahn
Secretary of State

MESSAGE

I am allowing the following bills related to local retirement systems to become law without my signature: House Bill No. 3033, Senate Bill No. 1285 and Senate Bill No. 1286.

Each of these bills changes provisions of local retirement systems that receive no state support. Municipalities have the ability to make changes under laws that have already been passed, so forcing cities to come to the legislature to change their locally-funded retirement systems is an unnecessary exercise.

Following the 78th and 80th Legislatures, I allowed local pension bills to become law with the message, "The Texas Legislature should get out of the business of approving local retirement benefits for cities." I am disappointed that the legislature continues to mandate what local pension benefits must be. I strongly recommend that municipalities work with the legislature to repeal the mandate that certain cities must come to the legislature to change their pension systems.



IN TESTIMONY WHEREOF, I
have signed my name officially
and caused the Seal of the State
to be affixed hereto at Austin,
this 17th day of June, 2011.

Rick Perry

RICK PERRY
Governor of Texas

ATTESTED BY:

Esperanza Andrade

ESPERANZA "HOPE" ANDRADE
Secretary of State

SECRETARY OF STATE
4:00 PM O'CLOCK
JUN 17 2011